

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

Leila Green Little, *et al.*,

Plaintiffs,

v.

Llano County, *et al.*,

Defendants.

§
§
§
§
§
§
§
§
§
§
§

Civil Action No. 1:22-cv-00424-RP

JOINT NOTICE REGARDING PLAINTIFFS' MOTIONS TO COMPEL DISCOVERY

On April 5, 2023, and April 13, 2023,¹ the Court ordered the parties to meet and confer regarding the following pending Motions for Discovery in advance of an April 27, 2023 hearing set on the motions:

- Plaintiffs' Opposed Motion to Compel Discovery Responses and for Sanctions (ECF Nos. 92 and 114),
- Plaintiffs' Opposed Motion to Compel and for Sanctions re. Defendant Wallace (ECF No. 123),
- Plaintiffs' Opposed Motion to Compel and for Sanctions re. Defendant Moss (ECF No. 127),
- Plaintiffs' Opposed Motion to Compel and for Sanctions re. Defendant Milum (ECF No. 135), and
- Plaintiffs' Opposed Motion to Compel Production of Documents (ECF No. 124).

The parties met and conferred via Zoom videoconference on April 14, 2023.

Defendants committed to providing updated positions on each outstanding issue and did so via email on April 22, 2023. The parties were able to make progress toward resolving a number of outstanding discovery issues, but none of the issues set forth in the pending discovery motions

¹ See ECF. Nos. 140 and 149.

has been fully and finally resolved from the perspective of all parties. Accordingly, the parties submit this joint status report. The parties will continue attempting to resolve the matters in advance of the hearing and will inform the Court if any interim agreements are reached.

I. PLAINTIFFS' OPPOSED MOTIONS TO COMPEL DISCOVERY RESPONSES AND FOR SANCTIONS (ECF NOS. 92 AND 114)

Responsive Documents Not Yet Produced		
Description	Responsive To	Status
Emails to and from llanoco.libraryadvisoryboard@gmail.com (Library Advisory Board)	<ul style="list-style-type: none"> Plaintiffs' First Set of RFPs to Llano County, Jerry Don Moss, Amber Milum, and Bonnie Wallace Nos. 1-6; Plaintiffs' Second Set of RFPs to Llano County Nos. 7-10, 14, 15, 17, 18, 19, 20, 25, 26; Plaintiffs' Second Set of RFPs to Amber Milum No. 12; Plaintiffs' First Set of RFPs to Bonnie Wallace Nos. 1-16; Plaintiffs' First Set of RFPs to Rochelle Wells Nos. 1-10; Plaintiffs' First Set of RFPs to Rhonda Schneider Nos. 1-10; Plaintiffs' First Set of RFPs to Gay Baskin Nos. 1-10. 	Defendants state that they are working on obtaining the password for this account and will produce responsive documents if they can obtain the password. Defendants expect that relevant e-mails from this account have already been produced and that if any have not been the number of relevant e-mails will be small. The defendants have not provided a date by which production will be complete.
Emails to and from Llano County Library and Librarian email addresses, including but not limited to the following: <ul style="list-style-type: none"> llanocountylibrary@yahoo.com, 	<ul style="list-style-type: none"> Plaintiffs' First Set of RFPs to Llano County, Jerry Don Moss, Amber Milum, and Bonnie Wallace Nos. 1-6; Plaintiffs' Second Set of RFPs to Llano County Nos. 7-10, 14, 17, 18, 19, 20, 25, 26; 	Defendants state that they have obtained passwords for these accounts and will produce responsive documents. Defendants are working with the County's IT personnel to download and produce relevant e-mails from this account that have not already been produced.

Responsive Documents Not Yet Produced		
Description	Responsive To	Status
<ul style="list-style-type: none"> amilum.klib@yahoo.com, llano_bookcomment@yahoo.com, il.klib@yahoo.com, lakeshore.library@gmail.com, llano.circ@yahoo.com. 	<ul style="list-style-type: none"> Plaintiffs' Omnibus RFPs to All Defendants Nos. 2, 3. 	The defendants have not provided a date by which production will be complete.
<p>Emails to and from Llano County Library and Librarian email addresses, including but not limited to the following:</p> <ul style="list-style-type: none"> nrenshaw.klib@yahoo.com, sbaker.klib@yahoo.com, suzette2699@yahoo.com, apuryear.klib@yahoo.com, 	<ul style="list-style-type: none"> Plaintiffs' First Set of RFPs to Llano County, Jerry Don Moss, Amber Milum, and Bonnie Wallace Nos. 1-6; Plaintiffs' Second Set of RFPs to Llano County Nos. 7-10, 14, 17, 18, 19, 20, 25, 26; Plaintiffs' Omnibus RFPs to All Defendants Nos. 2, 3. 	Defendants state they cannot access these accounts.
Emails to and from LibertyForTheCaptives@hotmail.com (Rochelle Wells)	<ul style="list-style-type: none"> Plaintiffs' First Set of RFPs to Rochelle Wells Nos. 1-10. 	Defendants state there are no responsive documents from this account.
Emails to and from bwpancd@gmail.com (Bonnie Wallace)	<ul style="list-style-type: none"> Plaintiffs' First Set of RFPs to Bonnie Wallace Nos. 1-6; Plaintiffs' Second Set of RFPs to Bonnie Wallace Nos. 7-16. 	Defendants state that they have one responsive document from this account and will confirm whether there are additional responsive documents. Defendants have not provided a date by which production will be complete.

II. PLAINTIFFS' OPPOSED MOTION TO COMPEL PRODUCTION OF DOCUMENTS (ECF NO. 124)

At the April 14 Meet and Confer, Defendants maintained that these communications between Mr. Mitchell and Ms. Milum are protected by the attorney-client privilege and they will not waive the privilege by producing those attorney-client communications absent an order from the Court to do so and that the district court's rulings at the hearing in October of 2022 did not allow the plaintiffs to elicit testimony on actual conversations between Mr. Mitchell and Ms. Milum. Plaintiffs maintained that Defendants squarely put these communications at issue by injecting them into the facts of this dispute and relying on them to argue against Plaintiffs' claims, and that the Court has already overruled Defendants' privilege objections with respect to this issue. The parties were unable to reach agreement or narrow their disagreements on these issues during the meet and confer.

III. PLAINTIFFS' OPPOSED MOTIONS TO COMPEL AND FOR SANCTIONS (ECF NOS. 123, 127, AND 135)

At the April 14 Meet and Confer, Defendants maintained that the Plaintiffs could not take second depositions of Defendants Wallace, Moss, or Milum because they failed to seek or obtain leave of court under FRCP 30(a)(2)(A)(ii).

At the Meet and Confer, Plaintiffs maintained that they are entitled to take the depositions of Defendants Wallace, Moss, and Milum and the requested sanctions. Plaintiffs maintained that the parties' stipulation regarding expedited discovery allowed for taking these depositions and Defendants failed their obligation to respond to Plaintiffs' deposition notices or appear at their noticed depositions. The parties were unable to reach agreement or narrow their disagreements on these issues during the meet and confer.

The parties maintain their respective positions on the substantive law governing these motions as set forth in their respective briefing.

Dated: April 25, 2023

Respectfully submitted,

By: /s/ Ellen Leonida

By: /s/ Jonathan Mitchell

Ellen V. Leonida (CA Bar No. 184194)
Matthew Borden (CA Bar No. 214323)
J. Noah Hagey (CA Bar No. 262331)
Max Bernstein (NY Bar No. 5609037)
Ellis E. Herington (CA Bar No. 343085)
Marissa R. Benavides
(NY Bar No. 5796891)
BraunHagey & Borden LLP
351 California Street, 10th Floor
San Francisco, CA 94104
Tel: 415-599-0210
Fax: 415-276-1808
leonida@braunhagey.com
borden@braunhagey.com
hagey@braunhagey.com
bernstein@braunhagey.com
herington@braunhagey.com
benavides@braunhagey.com

Ryan A. Botkin
(TX Bar No. 00793366)
Katherine P. Chiarello
(TX Bar No. 24006994)
María Amelia Calaf
(TX Bar No. 24081915)
Kayna Stavast Levy
(TX Bar No. 24079388)
Wittliff | Cutter PLLC
1209 Nueces Street
Austin, Texas 78701
Tel: 512-960-4730
Fax: 512-960-4869
ryan@wittliffcutter.com
katherine@wittliffcutter.com
mac@wittliffcutter.com
kayna@wittliffcutter.com

Attorneys for Plaintiffs

Jonathan F. Mitchell
Texas Bar No. 24075463
Mitchell Law PLLC
111 Congress Avenue, Suite 400
Austin, Texas 78701
(512) 686-3940 (phone)
(512) 686-3941 (fax)
jonathan@mitchell.law

Dwain K. Rogers
Texas Bar No. 00788311
County Attorney

Matthew L. Rienstra
Texas Bar No. 16908020
First Assistant County Attorney

Llano County Attorney's Office
Llano County Courthouse
801 Ford Street
Llano, Texas 78643
(325) 247-7733
dwain.rogers@co.llano.tx.us
matt.rienstra@co.llano.tx.us

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on April 25, 2023 a true and correct copy of the foregoing document was served on all counsel of record who have appeared in this case using the Court's CM/ECF system as a Filing User.

/s/ Ellen Leonida

Ellen V. Leonida